



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/155,076	10/23/1998	SUSAN ADELE GREENFIELD	263/PPIR2548	8070

7590 11/30/2004

WENDEROOTH LIND & PONACK
2033 K STREET N W SUITE 800
WASHINGTON, DC 20006

EXAMINER

TURNER, SHARON L

ART UNIT	PAPER NUMBER
----------	--------------

1647

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/155,076

Applicant(s)

GREENFIELD ET AL.

Examiner

Sharon L. Turner

Art Unit

1647

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 11-15-04. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 13, 16, 30, 31, 33. All rejections are maintained for the same reasons of record. No new rejections are applied.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

SHARON L. TURNER, PH.D.
PATENT EXAMINER

Sharon L. Turner
11-29-04

Continuation of 5. does NOT place the application in condition for allowance because: Both replies of 9-14-04 and 9-17-04 will be entered. All rejections are maintained for the same reasons of record. No new rejections are applied. Applicants arguments have been fully considered but are not persuasive. Rejection over the Soreq patent was previously withdrawn in view of claim amendments, i.e., the negative limitation directed to "and having no cholinesterase activity". This negative limitation is no longer present in the claims and required reinstatement of the rejection. The Westwall declaration has been fully considered but was not considered persuasive because the Soreq peptides exhibit calcium channel modulatory function in association with their activity as anti-cholinesterase molecules. The declaration does not evidence in Figure 1 that the T40 peptides do not modulate calcium channel modulatory function, but only that the % control ACh response is not potentiated. No evidence of record correlates the data of % ACh response to a failure of T40 to mediate calcium channel modulatory function. Accordingly the data does not evidence that the T40 and other Soreq peptides are not effective in calcium channel modulatory function that is recognized as correlating with anti-cholinesterase activity. Therefore the declaration is non-persuasive to remove the prior art reference and rejection of record.

SHARON L. TURNER, PH.D.
PATENT EXAMINER

Sharon L. Turner
11-29-04